

**REMARKS**

Claims 1, 3-18 and 20-34 are currently pending in the application. By this amendment, independent claims 1 and 18 have been amended to further clarify the instant invention, and claims 4-7, 10-12, 15, 17, 21-24, 27-29, 32 and 34 have been amended for antecedent issues. No new matter has been entered.

Accordingly, reconsideration and withdrawal of the pending rejections are requested in view of the instant amendments and the accompanying remarks.

***Amendment Fully Supported by the Original Disclosure***

The above amendments do not add new matter to the application and are fully supported by the specification. For example, support for amending independent claims 1 and 18 for adding, - -such that the one or more first and second connecting members each have a width that is substantially greater than their thickness- -, is provided in paragraph [0003]. Claims 4-7, 10-12, 15, 17, 21-24, 27-29, 32 and 34 have been amended merely for formal matters that included antecedent and dependency issues.

***Drawings***

As neither the Examiner nor the Patent Office Draftsperson has objected to the originally submitted drawings, Applicant understands that these drawings are acceptable.

***35 U.S.C. § 112, second paragraph, Rejection is Moot***

Claims 1, 3-18 and 20-34 were rejected under 35 U.S.C. § 112, second paragraph, for being allegedly indefinite.

By this Amendment, Applicant submits that this basis of rejection has been rendered

moot. Applicant notes, in particular, that the above-noted independent claims 1 and 18 have been amended to further clarify the claims consistent with the Examiner's assertion of indefiniteness.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of these claims.

### **35 U.S.C. §102 Rejection**

Claims 1, 3, 5, 15-16, 18, 20, 22 and 32-33 are rejected under 35 U.S.C. § 102(b) as being anticipated by Spicer (US Patent No. 1,969,188) (hereafter "SPICER"). Applicant respectfully traverses this rejection for at least the following reasons.

In order to establish a *prima facie* case of anticipation under 35 U.S.C. § 102, a single prior art reference must disclose each and every element as set forth in the subject claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). Applicant respectfully submits that a *prima facie* case of anticipation cannot be established because SPICER fails to teach each and every element of the claims, as currently amended.

More particularly, Applicants' independent claim 1, as currently amended, recite, *inter alia*:

"c) adhesive for attaching the one or more first connecting members to the second adhesive-backed anchoring member and adhesive for attaching the one or more second connecting members to the first adhesive-backed anchoring member, the attachment of the one or more first and second connecting members to the first and second adhesive-backed anchoring members ~~forming~~ form attached and bridging portions of the one or more first and second connecting members, such that the attached portions ~~being~~ are attached to an the first and second adhesive-backed anchoring member,

members, and the bridging portions ~~spanning~~ span ~~the over-~~ over the laceration area between the first and second adhesive-backed anchoring members, wherein:

- i) the adhesive is applied to at least a portion of a lower surface of the one or more first and second connecting members, such that *the one or more first and second connecting members each have a width that is substantially greater than their thickness*; and
- ii) the lower surface of the bridging portion is substantially free of the adhesive."

Applicants' independent claim 18, as currently amended, recite, *inter alia*:

- iii) adhesive means for attaching the one or more first connecting members to the second adhesive-backed anchoring member and means for attaching the one or more second connecting members to the first adhesive-backed anchoring member, the attachment of the one or more first connecting members and the one or more second connecting members to the second and first anchoring members, respectively, forming attached and bridging portions of the one or more first and second connecting members, the attached portions being attached to ~~an~~ the respective first and second adhesive-backed anchoring member, and the bridging portions spanning the over-laceration area between the first and second adhesive-backed anchoring members, wherein:
  - 1) the adhesive is applied to at least a portion of a lower surface of the one or more first and second connecting members, such that the one or more first and second connecting members each have a width that is substantially greater than their thickness; and
  - (2) the lower surface of the bridging portion is substantially free of adhesive[.];

- b) attaching the first and second components to the at least a portion of skin on opposite sides of the laceration or incision, the edge of the first and second components from which the one or more first and second connecting members extend being the edge closest to the laceration or incision;
- c) closing the laceration or incision by adjusting ~~the~~ a position of the first and second adhesive-backed anchoring members relative to each other in both an X and a Y dimension; and
- d) fixing the relationship between the first and second adhesive-backed anchoring members established in step c) by attaching the one or more first connecting members to the second adhesive-backed anchoring member, and the one or more second connecting members to the ~~second~~ first adhesive-backed anchoring member.

Applicant submits that SPICER does not disclose or even suggest at least one or more first and second connecting members each have a width that is substantially greater than their thickness. Applicant acknowledges, for example, that Fig. 1 of SPICER shows a wound 11 being attended to by a pair of spaced strips or tabs 12 and 13 connected by threads (see page 1, lines 36-40). However, it is clear that this document does not specifically disclose that *the one or more first and second connecting members each have a width that is substantially greater than their thickness*, to the contrary, Fig. 1 of SPICER shows a thread 14 having a cylindrical constant width.

Thus, SPICER fails to provide any disclosure of the above-noted features at least recited in the independent claims, as currently amended.

Because SPICER fails to disclose each and every recited feature of at least independent claims 1 and 18, Applicant submits that the Examiner has failed to provide an adequate evidentiary basis to support an anticipation rejection under 35 USC § 102(b). Therefore, the 102(b) rejection of independent claims 1 and 18 should be withdrawn.

Further, Applicant submit that claims 3-18 and 20-34 are allowable at least for the reason that these claims depend from allowable base claims and because these claims recite additional features that further define the present invention.

Accordingly, Applicant requests that the Examiner reconsider and withdraw the rejection of the claims 1, 3, 5, 15-16, 18, 20, 22 and 32-33 under 35 U.S.C. § 102 (b) and indicate that these claims are allowable.

### **35 U.S.C. § 103 Rejection**

Claims 4, 6-14, 17, 21, 23-31 and 33-34 were rejected under 35 U.S.C. § 103(a) for being allegedly unpatentable over SPICER in view of Lebner (U.S. Patent No. 6,329,564) (hereafter "LEBNER").

The Examiner acknowledges that SPICER lacks, among other things, a coding means comprising an observable geometric distinction between the shape of the pulling elements and the shape of the anchoring members, that the coding comprises printed indicia enabling user distinction between pulling elements and anchoring members, that the coding further comprises distinguishing colors. However, the Examiner explains that these features are taught by LEBNER and that it would have been obvious to combine the teachings of these documents. Applicant respectfully submits that a *prima facie* case of obviousness has not been established as the applied references fail to teach each and every element of the claims.

Applicant submits that neither SPICER and LEBNER disclose or suggest the combination of features recited in at least independent claims 1 and 18, as currently amended. Applicant also submits that no proper combination of these documents disclose or suggest the combination of features recited in at least the independent claims, as

currently amended.

As explained above, SPICER lacks any disclosure or suggestion with regard to *the one or more first and second connecting members each have a width that is substantially greater than their thickness*. Indeed, Applicant has demonstrated that the device in SPICER is completely different than Applicant's above-disclosed instant invention, and that SPICER does not disclose or suggest the above noted features of Applicant's instant invention.

With regard to LEBNER, Applicant acknowledges that LEBNER teaches a tension indicator element that is to provide a visual indication that a desired tension has been reached while applying the bandage (see Col. 5, lines 1-15). However, the Examiner must acknowledge that LEBNER lacks any disclosure or suggestion with regard to the combination of features recited in the above-noted independent claims 1 and 18.

Moreover, in addition to failing to disclose the combination of features recited in the above-noted independent claims 1 and 18, Applicant submits no proper combination of these documents discloses or suggests the combination of features recited in either independent claims 1 and 18 or in the above-noted claims that depend from the respective independent claims 1 and 18.

Accordingly, Applicant respectfully submits that the above-noted rejection under 35 U.S.C. § 103(a) should be withdrawn.

### ***Amendment Proper for Entry***

Applicant submits that the instant amendment does not raise any new issues for consideration by the Examiner or any questions of new matter. Further, Applicant submits that, as the instant amendment places the claims into condition for allowance, entry and consideration of this amendment is proper and, therefore, requested.


## CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious Applicant's invention, as recited in each of claims 1, 3-18 and 20-34. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Respectfully submitted,  
Michael Lebner

  
James M. McAleenan  
Reg. No. 56,820

June 28, 2006  
Pierce Atwood, LLP  
One NH Avenue, Suite 350  
Portsmouth, NH 03801  
603-373-2043

PO118123.doc